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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/781,527	02/17/2004	Edward R. Katz	741501-1053	2433
24504 7590 07/20/2007 THOMAS, KAYDEN, HORSTEMEYER & RISLEY, LLP 100 GALLERIA PARKWAY, NW STE 1750 ATLANTA, GA 30339-5948			EXAMINER WENDELL, MARK R	
			ART UNIT 3609	PAPER NUMBER
			MAIL DATE 07/20/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/781,527	<b>Applicant(s)</b> KATZ, EDWARD R.	
	<b>Examiner</b> Mark R. Wendell	<b>Art Unit</b> 3609	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 15 June 2007.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) 4 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 June 2007 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Terminal Disclaimer***

The terminal disclaimer filed on 6/15/07 disclaiming the terminal portion of any patent granted on this application has been reviewed and is accepted. The terminal disclaimer has been recorded.

Upon further consideration, the previously allowed claims have been rejected on the basis of the prior art described below.

### ***Specification***

The disclosure is objected to because of the following informalities: The first sentence of the specification should be amended to reflect that US Application 10/090678 has issued as US Patent 6718706.

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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Claims 1-7, 9-13 are rejected under 35 U.S.C. 102(b) as being anticipated by McNally (US 5813172). McNally discloses in Figures 1-6, a portable device that can be used for protecting the surfaces of an entryway having a first and second surface comprising:

- A main section (12) with the main protection material comprising a cushioning material (air) and at least one rigid sheet in juxtaposition to the cushioning material;
- A main section having a horizontal fold line (see modified figure below) with a cushioning material (air) and a portion of the sheet on each side;
- A minor flap, with a horizontal fold line, composed of a least one material rotatably connected to the main section;
- A noninvasive, detachable, securing system capable of securing the device to the protected surfaces (loops on all corners in Figure 2).

The examiner also notes that the main section and minor flap are capable of being folded along the horizontal fold lines for portability (Figures 2 and 3 of McNally).

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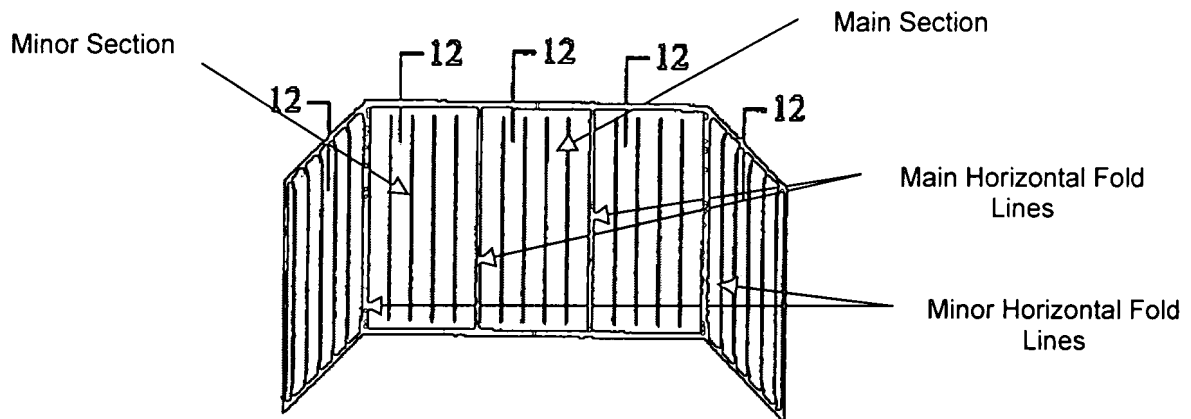


Figure 3

McNally Figure 3

Regarding claim 2 and 3, the device of McNally is foldable about the corner, or about the width of a door, as shown in Figures 2 and 3.

Regarding claim 5, McNally illustrates in Figure 3 (shown above) the main section having two rigid sheets on each side of the fold lines.

Regarding claim 6, McNally illustrates in Figure 2 each rigid sheet having a plurality of ribs (14).

Regarding claim 7, McNally illustrates in Figure 6 the ribs (14) being perpendicular to one another.

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Regarding claim 9, McNally illustrates in Figures 1-6 the main horizontal fold line being contiguous with the minor horizontal fold line. The examiner notes that the meaning of contiguous is taken to mean near, close to, or on the same structure.

Regarding claims 10-11, McNally discloses within the abstract (line 1) the main protective cover, being made from vinyl, enclosing the main protection material (air), which are in juxtaposition to one another.

Regarding claim 12, McNally discloses the entire structural wall panel (Abstract, line 1) being made of vinyl. Therefore the main protective sleeve and minor flap are both made of the same material.

Regarding claim 13, McNally illustrates in Figure 2 the main horizontal fold line having a securing system (loops) assisting in holding the main section (12) in an upright position.

The examiner notes that the specification of McNally specifically calls the structure pliable. However, when the protective panels are inflated the structure becomes erect and meets the limitation of being rigid.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 14-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over McNally (US 5813172) in view of Gilkey (US 1719364). It is described above what is disclosed by McNally. McNally does not disclose a noninvasive securing system with belts, loops, and straps. However, regarding claims 14-15, Gilkey illustrates in Figure 1 a noninvasive, detachable, securing system capable of securing the device to the protected surfaces. It would have been obvious to one of ordinary skill in the art to replace the securing system of McNally with the securing system of Gilkey in order to better fasten the protective device to the door / door jamb.

Regarding claim 14, Gilkey illustrates in Figure 1 a detachable securing system consisting of two straps (21 and 25) with a series of loops (26) and projections (23).

Regarding claim 15, Gilkey illustrates in Figure 1 a fastener (23) and at least one belt (21) capable of extending around the main section (16).

Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over McNally (US 5813172) in view of Gilkey (US 1719364) as applied to claims 1-7, 9-15 above, and further in view of DeRosa (US 5937458). It is described above what is disclosed by McNally in view of Gilkey, however neither teaches the main section several times

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thicker than the minor flap. DeRosa illustrates in Figure 1-9 the main section (26, 52) being several times thicker than the minor flaps (82, 83, 92, 93). It would have been obvious to one having ordinary skill in the art at the time of invention to modify the system of McNally as modified by Gilkey with the dimensions of DeRosa to better protect the most important, main section. The main section may include a door or the structure to house a baby as in DeRosa.

Claims 16-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over McNally (US 5813172) in view of Gilkey (US 1719364) as applied to claims 1-7, 9-15 above, and further in view of Fluss (US 2278695). It is described above what is disclosed by McNally as modified by Gilkey, however that reference does not teach a securing system with a suction cup. Regarding claims 16 and 17, Fluss illustrates in Figure 1 a securing section comprising a suction cup (13) attached via a grommet structure. It would have been obvious to one of ordinary skill in the art at the time of invention to include the suction cup system of Fluss to the securing structure of McNally as modified by Gilkey in order to further secure the padding structure to the door.

Regarding claim 18, Gilkey illustrates in Figure 1 fasteners (23) and belts (21, 22, 40) capable of extending around the main section (16) and minor flap (15).

### ***Response to Arguments***

Applicant's arguments with respect to claims 1-18 have been considered but are moot in view of the new grounds of rejection.



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### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. McQuown (US 1126243) teaches improvements to freight car shipping attachments. Weller (US 4768320) teaches a rigid door frame guard.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mark R. Wendell whose telephone number is (571) 270-3245. The examiner can normally be reached on Mon-Fri, 7:30AM-5PM, Alt. Fri off, EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Victor Batson can be reached on (571) 272-6987. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Victor Batson  
Supervisory Patent Examiner  
Art Unit 3609

MRW  
July 3, 2007